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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,747	11/21/2005	Toru Nishibayashi	Q91609	2298
23373	7590	06/17/2010	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				SZNAIDMAN, MARCOS L
ART UNIT		PAPER NUMBER		
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NOTIFICATION DATE		DELIVERY MODE		
06/17/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM



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JUN 17 2010

Jennifer M. Hayes
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of :
Nishibayashi et al :
Serial No.:10/557,747 :
Filed : 21 November 2005 :
Attorney Docket No.:Q91609 :
: Supplemental Decision on Petition
:

This letter is in response to the Petition filed on 30 June 2009 under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement mailed 7 March 2008.

Upon receipt of the petition decision mailed 25 May 2010, Applicant called requesting reconsideration of the petition and rejoinder of claim 28, submitted 30 June 2009. Applicants stated that on 30 June 2009, an amendment was submitted which included new claim 28.

Upon review of the file, no electronic copy of a 30 June 2009 claim amendment could be found in the electronic file. In follow up, the Office requested that the scanning support contractors review the papers which were filed on 30 June 2009. Upon doing so, they found the paper copy of the missing claim amendment and have scanned it into the file.

Applicants are correct that claim 28, directed to the non-elected invention, was pending on 30 June 2009 and the file has been completed to include those amendments. However, before the mailing of the petition decision, on 16 February 2010, applicant filed an amendment that cancelled all claims directed to the non-elected invention, including claim 28.

For this reason, the petition under 37 CFR 1.144 remains **DISMISSED** because there are no claims pending which are directed to the non-elected invention. At this moment, all pending claims are under examination and no claims are withdrawn from examination.

Applicant remains under obligation to respond in a timely manner to the final Office action mailed 7 June 2010.

Any request for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS of the mail date of this petition decision. It is recommended that if applicant wish to have claims rejoined for examination, that these claims be kept pending. Cancelled claims cannot be rejoined.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.


Remy Yucel
Director, Technology Center 1600